

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANTHONY MCCANNON,	§	
Plaintiff,	§	
	§	
v.	§	No. 3:18-cv-01169-N (BT)
	§	
	§	
PETE ZAMBARA,	§	
Defendant.	§	

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The District Court referred this civil action to the United States magistrate judge pursuant to 28 U.S.C. § 636(b) and a standing order of reference. The United States magistrate judge now enters these findings, conclusions, and a recommendation that the District Court DISMISS this action for want of prosecution under Fed. R. Civ. P. 41(b).

I.

Plaintiff filed this complaint on May 8, 2018. The complaint, in its entirety, states: “Stopping an eviction.” On May 14, 2018, the Court sent Plaintiff a Notice of Deficiency and Order notifying him that the complaint failed to comply with Fed. R. Civ. P. 8(a). The Court directed Plaintiff to cure the deficiency within 30 days or the Court would recommend

dismissal for failure to prosecute. More than 30 days have passed, and Plaintiff has failed to respond to the deficiency order.

II.

Rule 41(b) of the Federal Rules of Civil Procedure allows a court to dismiss an action *sua sponte* for failure to prosecute or for failure to comply with the federal rules or any court order. *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998). “This authority [under Rule 41(b)] flows from the court’s inherent power to control its docket and prevent undue delays in the disposition of pending cases.” *Boudwin v. Graystone Ins. Co., Ltd.*, 756 F.2d 399, 401 (5th Cir. 1985) (citing *Link v. Wabash, R.R. Co.*, 370 U.S. 626 (1962)). Petitioner has failed to respond to the Court’s deficiency order. The Complaint does not comply with Fed. R. Civ. P. 8(a). The Court must obtain additional information about Plaintiff’s claims in order to proceed with this litigation. The inability to proceed is directly attributable to Plaintiff’s failure to provide the information requested. Under these circumstances, dismissal is warranted.

III.

The Court recommends that the complaint be dismissed without prejudice for want of prosecution under Fed. R. Civ. P. 41(b).

Signed June 29, 2018.



REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The Court directs the United States District Clerk to serve on the parties a true copy of the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these Findings, Conclusions, and Recommendation must serve and file written objections within 14 days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. A party's failure to file such written objections to these Findings, Conclusions, and Recommendation will bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the Findings, Conclusions, and Recommendation within 14 days after being served with a copy will bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).